

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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OUMOU BAH, AS THE
ADMINISTRATOR THE ESTATE OF
MOHAMED BAH,

Plaintiff,

13 Civ. 6690(PKC)(KNF)

vs.

THE CITY OF NEW YORK, DET. EDWIN MATEO;
P.O. ANDREW KRESS; P.O. MICHAEL GREEN;
P.O. JOSEPH MCCORMACK; LT. MICHAEL
LICITRA; LT. ROBERT GALLITELLI; P.O.
BRIAN STANTON; P.O. ESMERALDA SANTANA;
P.O. VINCENT JOHNSON,

Defendants.

-----X

PLAINTIFF'S PROPOSED SPECIAL VERDICT FORM QUESTIONS:

General Instructions

This case will be decided on the basis of the answers that you give to certain questions that will be submitted to you. Each of the questions asked calls for a "Yes" or "No" answer or a numerical figure. As you will note from the wording of some questions, you need not consider the next question at all if your answer to the first question in the group is "No." Please follow those directions carefully.

When you have answered all the questions that require answers, report to the court.

Do not assume from the questions or from the wording of the questions or from my instructions on them what the answers should be.

Federal Civil Rights Law Claims

Unlawful Entry:

1(a). Has the Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants unlawfully entered Mr. Bah's apartment, as defined in the instructions?

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____
Michael Licitra	Yes _____	No _____
Robert Gallitelli	Yes _____	No _____
Brian Stanton	Yes _____	No _____
Esmeralda Santana	Yes _____	No _____
Vincent Johnson	Yes _____	No _____

If you answered "Yes" to Question 1(a) as to **one or more** of the Defendants, proceed to Question 1(b).

If you answered "No" to Question 1(a) as to **all** of the Defendants, proceed to Question 2(a).

1(b). Has the Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants failed to supervise other officers from unlawfully entering Mr. Bah's apartment, as defined in the instructions?

Michael Licitra	Yes _____	No _____
Robert Gallitelli	Yes _____	No _____

Excessive Force:

2(a). Has the Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants used excessive force as defined in the instructions?

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____

If you answered "Yes" to Question 2(a) as to one or more of the Defendants, proceed to Question 2(b).

If you answered "No" to Question 2(a) as to all of the Defendants, proceed to Question 3.

2(b). Has the Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants failed to supervise other officers from subjecting Mr. Bah to excessive force, as defined in the instructions?

Michael Licitra	Yes _____	No _____
Robert Gallitelli	Yes _____	No _____

State Law Claims

Assault:

3. Has Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants assaulted Mr. Bah, as defined in the instructions?

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____

Battery

4. Has Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants battered Mr. Bah, as defined in the instructions?

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____

Conscious Pain and Suffering

5. Has Plaintiff proven by a preponderance of the evidence that one or more of the following Defendants caused conscious pain and suffering to Mr. Bah, as defined in the instructions?

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____
Michael Licitra	Yes _____	No _____
Robert Gallitelli	Yes _____	No _____

If you answered "Yes" to Questions 3, 4, or 5 proceed to Question 6.

If you answered "No" to Questions 3, 4, and 5 but "Yes" to Question 1(a), 1(b), 2(a), or 2(b), proceed to Question 7(a).

If you answered "No" to Questions 1(a), 1(b), 2(a) and 2(b), and "No" to Questions 3, 4 and 5 proceed no further.

Vicarious Liability:

6. Is the City of New York vicariously liable for the acts of the Defendants?

Yes _____

No _____

If your answer to Questions 1(a), 1(b), 2(a), 2(b), 3, 4 or 5 is "Yes", you have found a verdict in favor of the Plaintiff against the individual Defendants on one or more claims. In that event, please proceed to Question 7(a).

If your answer to Question 6 is "Yes", you have found a verdict in favor of the Plaintiff against the City of New York. In that event, please proceed to Question 7(a).

Damages

Unlawful Entry:

Only answer this question if you answered "Yes" in Question 1(a) or 1(b). If not, proceed to Question 8(a).

7(a). Has Plaintiff proven by a preponderance of the evidence that Mr. Bah is entitled to compensatory damages as a result of Defendants' unlawful entry?

Yes _____

No _____

If you answered "Yes" to Question 7(a), proceed to Question 7(b). If you answered "No" to Question 7(a), proceed to Question 8(a).

7(b). State the total dollar amount of any actual compensatory damages that Mr. Bah is entitled to on his unlawful entry claim.

\$ _____

7(c). For any Defendant for whom you answered "Yes" in Question 1(a) or 1(b), identify the percentage, if any, of compensatory damages for which they are responsible. The total of percentages must equal one hundred percent.

Edwin Mateo	_____ %
Andrew Kress	_____ %
Michael Green	_____ %
Joseph McCormack	_____ %
Michael Licitra	_____ %
Robert Gallitelli	_____ %
Brian Stanton	_____ %
Esmeralda Santana	_____ %
Vincent Johnson	_____ %

Excessive Force:

Only answer this question if you answered "Yes" in Question 2(a) or 2(b). If not, proceed to Question 9(a).

8(a). Has Plaintiff proven by a preponderance of the evidence that Mr. Bah is entitled to compensatory damages as a result of Defendants' use of excessive force?

Yes _____

No _____

If you answered "Yes" to Question 8(a), proceed to Question 8(b). If you answered "No" to Question 8(a), proceed to Question 9(a).

8(b). State the total dollar amount of any actual compensatory damages that Mr. Bah is entitled to on his excessive force claim.

\$ _____

8(c). For any Defendant for whom you answered "Yes" in Question 2(a) or 2(b), identify the percentage, if any, of compensatory damages for which they are responsible. The total of percentages must equal one hundred percent.

Edwin Mateo _____ %

Andrew Kress _____ %

Michael Green _____ %

Joseph McCormack _____ %

Michael Licitria _____ %

Robert Gallitelli _____ %

Assault:

Only answer this question if you answered "Yes" in Question 3. If not, proceed to Question 10(a).

9(a). Has Plaintiff proven by a preponderance of the evidence that Mr. Bah is entitled to compensatory damages as a result of Defendants' assault?

Yes _____

No _____

If you answered "Yes" to Question 9(a), proceed to Question 9(b). If you answered "No" to Question 9(a), proceed to Question 10(a).

9(b). State the total dollar amount of any actual compensatory damages that Mr. Bah is entitled to on his assault claim.

\$_____

9(c). For any Defendant for whom you answered "Yes" in Question 3, identify the percentage, if any, of compensatory damages for which they are responsible. The total of percentages must equal one hundred percent.

Edwin Mateo _____ %

Andrew Kress _____ %

Michael Green _____ %

Joseph McCormack _____ %

Battery:

Only answer this question if you answered "Yes" in Question 4. If not, proceed to Question 11(a).

10(a). Has Plaintiff proven by a preponderance of the evidence that Mr. Bah is entitled to compensatory damages as a result of Defendants' battery?

Yes _____

No _____

If you answered "Yes" to Question 10(a), proceed to Question 10(b).

If you answered "No" to Question 10(a), proceed to Question 11(a).

10(b). State the total dollar amount of any actual compensatory damages that Mr. Bah is entitled to on his battery claim.

\$_____

10(c). For any Defendant for whom you answered "Yes" in Question 4, identify the percentage, if any, of compensatory damages for which they are responsible. The total of percentages must equal one hundred percent.

Edwin Mateo _____ %

Andrew Kress _____ %

Michael Green _____ %

Joseph McCormack _____ %

Conscious Pain and Suffering:

Only answer this question if you answered "Yes" in Question 5. If not, proceed to Question 12.

11(a). Has Plaintiff proven by a preponderance of the evidence that Mr. Bah is entitled to compensatory damages as a result of his conscious pain and suffering?

Yes _____

No _____

If you answered "Yes" to Question 11(a), proceed to Question 11(b).

If you answered "No" to Question 11(a), proceed to Question 12.

11(b). State the total dollar amount of any actual compensatory damages that Mr. Bah is entitled to on his conscious pain and suffering claim.

\$_____

11(c). For any Defendant for whom you answered "Yes" in Question 5, identify the percentage, if any, of compensatory damages for which they are responsible. The total of percentages must equal one hundred percent.

Edwin Mateo	_____ %
Andrew Kress	_____ %
Michael Green	_____ %
Joseph McCormack	_____ %
Michael Licitra	_____ %
Robert Gallitelli	_____ %

Economic Loss:

11. State the total dollar amount the Plaintiff is entitled to for the economic losses sustained as a result of the death of Mr. Bah.

\$_____

Punitive Damages:

12(a). If you have found one or more of the named individual Defendants liable for any of the above claims, please state whether you find that the Plaintiff has proven by a preponderance of the credible evidence that Mr. Bah is entitled to an award of punitive damages from the following Defendants:

Edwin Mateo	Yes _____	No _____
Andrew Kress	Yes _____	No _____
Michael Green	Yes _____	No _____
Joseph McCormack	Yes _____	No _____
Michael Licitra	Yes _____	No _____
Robert Gallitelli	Yes _____	No _____
Brian Stanton	Yes _____	No _____
Esmeralda Santana	Yes _____	No _____
Vincent Johnson	Yes _____	No _____

If you answered "Yes" as to one or more of the Defendants, proceed to Question 12(b).

12(b). Please indicate in the space provided the dollar amount of punitive damages to be awarded against that defendant:

Edwin Mateo	\$ _____
Andrew Kress	\$ _____
Michael Green	\$ _____
Joseph McCormack	\$ _____
Michael Licitra	\$ _____
Robert Gallitelli	\$ _____
Brian Stanton	\$ _____
Esmeralda Santana	\$ _____
Vincent Johnson	\$ _____

When you have completed this verdict form, please have the foreperson provide his or her signature and today's date, and contact the Court.

FOREPERSON

Dated: New York, New York
, 2017

Respectfully submitted,

s/ Randolph M. McLaughlin

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